



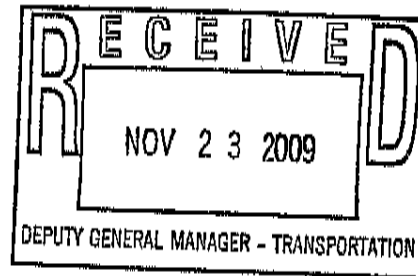
U.S. Department
of Transportation

**Federal Railroad
Administration**

NOV 18 2009

Mr. Kevin J. O'Connor
Deputy General Manager Transportation
New Jersey Transit Rail Corporation
One Penn Plaza East
Newark, New Jersey 07105-2246

1200 New Jersey Avenue, SE
Washington, DC 20590



Dear Mr. O'Connor:

This letter is in response to the New Jersey Transit Rail Corporation's (NJTR) June 12, 2009,¹ petition for waiver from certain provisions of Title 49 of the Code of Federal Regulations (CFR), Part 240, *Qualification and Certification of Locomotive Engineers*. Specifically, NJT requested relief from the requirements of 49 CFR §§ 240.117(e)(1)-(4), 240.305, and 240.307. As noted in the petition, the requested relief is related to the desire of NJTR and certain NJTR employees represented by the American Train Dispatchers Association (ATDA), the Brotherhood of Locomotive Engineers and Trainmen (BLET), and the United Transportation Union (UTU) to participate in a Close Call Reporting System (C³RS) pilot project sponsored by the Federal Railroad Administration (FRA).

After careful review of the petition and the accompanying Implementing Memorandum of Understanding (IMOU), the FRA Railroad Safety Board has determined that granting the requested relief is in the public interest and consistent with railroad safety. Accordingly, the Board hereby grants the requested relief subject to the following conditions:

1. The IMOU among ATDA, BLET, BTS, FRA, NJTR, and UTU, as executed by FRA on July 1, 2009, is incorporated by reference into the conditions of this letter. This waiver is limited to relief necessary to implement the terms of the IMOU. Any proposed material modifications to the IMOU must be submitted to the FRA Railroad Safety Board for approval prior to implementation of such modifications.
2. Prior to implementing the C³RS pilot project, all NJTR employees eligible to participate in the project must be trained in the proper reporting of "close call" incidents as defined in the IMOU.


¹ Although NJTR's petition is dated June 12, 2009, the petition apparently was not submitted to the FRA Docket Clerk as required by 49 CFR § 211.7 and was not received by FRA until late September 2009. To ensure timely consideration of future waiver petitions, FRA reminds NJTR that any such petitions should be submitted to FRA in accordance with FRA's Rules of Practice found at 49 CFR Part 211.

3. Relief from 49 CFR § 240.305 is limited to relief from the requirements of paragraphs (a)(1)-(4) and (a)(6). Relief from paragraph (a)(6) is limited to certified locomotive engineer pilots or instructor engineers and specifically excludes Designated Supervisors of Locomotive Engineers.
4. This waiver is effective for a period of 5 years from the date of this letter, until the C³RS pilot project is completed, or until any party to the IMOU cancels its participation in the project, whichever occurs first. FRA reserves the right to extend the waiver if conditions warrant and if NJTR has made a written request to FRA's Office of Safety Assurance and Compliance not less than 6 months prior to the expiration.

FRA reserves the right to modify or rescind this waiver at any time upon receipt of information pertaining to the safety of rail operations or in the event of noncompliance with any condition of this waiver.

In any future correspondence related to this waiver, please refer to Docket Number FRA-2009-0096.

Sincerely,



Grady C. Cothen, Jr.
Deputy Associate Administrator
for Safety Standards and Program Development